

Zambia

## Bank of Zambia Act, 2022

Act 5 of 2022

Legislation as at 29 July 2022

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# Zambia

## Bank of Zambia Act, 2022

Act 5 of 2022

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Assented to on 29 July 2022

Commencement date unknown

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**An Act to provide for the additional functions, operations and management of the Bank of Zambia; provide for the composition of the Board of Directors of the Bank of Zambia and provide for their functions; provide for the establishment of the Monetary Policy Committee and the Financial Stability Committee and provide for their functions; repeal and replace the Bank of Zambia Act, 1996; and provide for matters connected with, or incidental to, the foregoing.**

ENACTED by the Parliament of Zambia.

### Part I – Preliminary provisions

#### 1. Short title and commencement

This Act may be cited as the Bank of Zambia Act, 2022, and shall come into operation on the date appointed by the Minister by statutory instrument.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"**active politics**" has the meaning assigned to the words in the Benefits of Former Presidents Act;

[\[Cap. 15\]](#)

"**associate**" has the meaning assigned to the word in the Anti-Corruption Act, 2012;

[\[Act No. 3 of 2012\]](#)

"**Bank**" means the Bank of Zambia established under the Constitution and continued in existence under section 3;

[\[Cap. 1\]](#)

"**bank**" has the meaning assigned to the word in the Banking and Financial Services Act, 2017;

[\[Act No. 7 of 2017\]](#)

"**banking business**" has the meaning assigned to the words in the Banking and Financial Services Act, 2017;

[\[Act No. 7 of 2017\]](#)

"**Board**" means the Board of Directors of the Bank constituted under the Constitution;

[\[Cap. 1\]](#)

"**emoluments**" has the meaning assigned to the word in the Constitution;

[\[Cap. 1\]](#)

"**Emoluments Commission**" mean the Emoluments Commission established by the Constitution;

*[Cap. 1]*

"**financial business**" has the meaning assigned to the words in the Banking and Financial Services Act, 2017;

*[Act No. 7 of 2017]*

"**financial institution**" has the meaning assigned to the words in the Banking and Financial Services Act, 2017;

*[Act No. 7 of 2017]*

"**financial service**" has the meaning assigned to the words in the Banking and Financial Services Act, 2017;

*[Act No. 7 of 2017]*

"**financial service provider**" has the meaning assigned to the words in the Banking and Financial Services Act, 2017;

*[Act No. 7 of 2017]*

"**financial intermediary**" means an entity that provides a financial service and facilitates a financial transaction among persons;

"**Financial Stability Committee**" means the Financial Stability Committee established under [section 31](#);

"**financial system**" means a set of financial intermediaries, financial markets and financial infrastructure that facilitates the exchange of funds and assets among persons;

"**financial system stability**" means the financial system's resilience to shocks and its ability to smoothly conduct its core tasks of intermediation of financing, transmission of payments, pricing of instruments and redistribution of risks;

"**general reserve fund**" means the general reserve fund of the Bank continued and maintained under paragraph 10 of the First Schedule;

"**legally disqualified**" means the absence of legal capacity as provided under section 4 of the Mental Health Act, 2019;

*[Act No. 6 of 2019]*

"**macro-prudential**" means the use of prudential tools to limit systemic risks by strengthening the resilience of the financial system and decreasing the build-up of vulnerabilities, there by ensuring a sustainable contribution of the financial sector to economic growth;

"**member**" means a person appointed as a director of the Board in accordance with [section 7](#);

"**Monetary Policy Committee**" means the Monetary Policy Committee established under [section 27](#);

"**official international reserves**" means the reserves specified under [section 53](#);

"**ordinary revenue**" means revenue from taxes, levies, royalties, fees, duties, rents, profits and income from any investment or any undertaking by the Government, Government institutions and agencies, statutory bodies and local authorities, but does not include any funds raised by way of borrowing, grants in cash or in kind, or any other form of economic assistance"

"**payment service provider**" means a person licensed or authorized by the Bank under the National Payment Systems Act, 2007, to provide a service or system that facilitates the transfer of funds from one person to another using various forms of payment instruments;

*[Act No. 1 of 2007]*

"**payment system**" has the meaning assigned to the words in the National Payment Systems Act, 2007;

[Act No. 1 of 2007]

"**public officer**" has the meaning assigned to the words in the Constitution;

[Cap. 1]

"**regulated entity**" means a person licensed under the Banking and Financial Services Act, 2017, the National Payment Systems Act, 2007, and the Credit Reporting Act, 2018 to carry out a licensed activity;

[Act No. 7 of 2007; Act No. 1 of 2007; Act No. 8 of 2018]

"**regulatory statement**" has the meaning assigned to the words in the Banking and Financial Services Act, 2017;

[Act No. 7 of 2017]

"**relative**" has the meaning assigned to the word in the Anti-Corruption Act, 2012;

[Act No. 3 of 2012]

"**repealed Act**" means the Bank of Zambia Act, 1996;

[Act No. 43 of 1996]

"**revaluation reserve account**" means a reserve account maintained in the financial records of the Bank to which unrealised gains and losses from gold, special drawing rights, foreign currency or other financial instruments are transferred from the income statement;

"**secondary market**" means the market where persons trade the previously issued debt securities;

"**securities**" has the meaning assigned to the word in the Securities Act, 2016;

[Act No. 41 of 2016]

"**superior court**" has the meaning assigned to the words in the Constitution;

[Cap. 1]

"**supervisory authority**" has the meaning assigned to the words in the Financial Intelligence Centre Act, 2010; and

[Act No. 46 of 2010]

"**systemic risk**" means the risk of disruptions to the provision of banking and financial services that is caused by an impairment of all or parts of the financial system and can cause serious negative consequences for the real economy.

## Part II – Administration of the Bank of Zambia

### 3. Bank of Zambia

- (1) The Bank of Zambia established by the Constitution is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and with power, subject to the provisions of this Act, to do all acts and things that a body corporate may, by law, do or perform.

[Cap. 1]

- (2) The First Schedule applies to the Bank.

#### 4. Capital and ownership of Bank

- (1) Subject to subsection (2), the authorized capital of the Bank is five hundred million kwacha.
- (2) The Board may, subject to the consent of the Minister, increase or reduce the authorized capital of the Bank to an amount the Board may determine by resolution.
- (3) The Government shall be the sole subscriber to the paid-up capital of the Bank and the Bank's holdings of the paid-up capital shall not be transferrable to any person in whole or in part or be subject to any encumbrance.
- (4) The Government shall pay in full any increase in the authorized capital effected under subsection (2).
- (5) Despite other provisions of this Act, the Minister shall transfer ownership to the Bank negotiable interest-bearing securities, at market rate, issued by the Government, for an amount the Board may determine is necessary for the purpose of preserving the Bank's capital from any impairment.

#### 5. Additional functions of Bank

- (1) Subject to the Constitution, the additional function of the Bank is to formulate and implement monetary and supervisory policies, directed at achieving and maintaining price stability and financial stability.

*[Cap. 1]*

- (2) Where it is considered that there is a conflict between price stability and financial stability referred to under subsection (1), price stability shall take precedence.
- (3) Despite the generality of subsection (1), the functions of the Bank are to—
  - (a) formulate and implement macro-prudential policies;
  - (b) implement the exchange rate policy;
  - (c) hold and manage the international reserve assets of the Republic;
  - (d) licence, regulate and supervise financial service providers and credit reporting agencies;
  - (e) establish, conduct, monitor, regulate and supervise, and promote the soundness and safety of payment systems;
  - (f) act as a banker and fiscal agent to the Government;
  - (g) act as a banker to banks;
  - (h) assist the Government in the management and administration of domestic and external debt;
  - (i) foster the liquidity, solvency and proper functioning of a stable market-based financial system;
  - (j) provide banking services for the benefit of foreign governments, foreign central banks and monetary authorities, and for the benefit of international organisations in which the Bank or the Government participates;
  - (k) collaborate with international financial institutions in furtherance of the Bank's functions;
  - (l) undertake and discharge responsibilities, and perform transactions, concerning the Government's participation in international organisations;
  - (m) act as an economic adviser to the Government;



- (n) issue debt securities on behalf of the Government on terms and conditions that the Bank considers appropriate;
- (o) issue debt securities for the purpose of implementing monetary policy on terms and conditions that the Bank considers appropriate;
- (p) acquire shares in any domestic or international institution, company or other body in furtherance of the Bank's functions;
- (q) regulate the foreign currency market;
- (r) grant secured or unsecured loans and advances to any of the Bank's subsidiaries in furtherance of the Bank's functions or its staff as approved by the Board
- (s) assist financial service providers in financial difficulty;
- (t) acquire, in the course of satisfying a debt, any interest or right if that interest or right can be disposed of at the earliest suitable opportunity;
- (u) buy, sell or otherwise deal in—
  - (i) financial instruments and, in accordance with the provisions of any other written law regulating the safe deposit of securities, hold the financial instruments in safe custody, or cause the financial instruments to be held in safe custody, for any person;
  - (ii) gold and other precious metals, and hold in safe custody, for any person, gold and other precious metals, securities or other articles of value;
  - (iii) foreign currency;
  - (iv) notes, bills, securities or other instruments of indebtedness issued or guaranteed by local authorities, public entities or any foreign country that the Board may determine; and
  - (v) discount or re-discount bills of exchange or promissory notes issued for commercial, industrial or agricultural purposes;
- (v) issue its own interest-bearing securities for purposes of implementing monetary policy and buy, sell, discount or re-discount, or grant loans or advances against those securities;
- (w) enter into, repurchase or reverse repurchase agreements with any institution in respect of interest-bearing securities or other securities that the Bank may determine;
- (x) effect transfers in accordance with generally accepted banking practice and sell drafts drawn on the Bank's branches and correspondents;
- (y) open accounts in financial institutions in foreign countries and appoint agents or correspondent banks carrying on business outside the Republic;
- (z) make arrangements or enter into an agreement with any institution, locally or in a foreign country, to borrow foreign currency at a rate of interest and on terms that the Bank considers appropriate, in furtherance of the Bank's functions;
- (aa) by notice, direct any person to furnish the Bank, within a specified period of time, with any specified information that the Bank may reasonably require—
  - (i) to determine the balance of payments;
  - (ii) for purposes related to financial system stability;
  - (iii) for statistical reports; or
  - (iv) for the performance of any other function of the Bank under this Act;

- (bb) promote the effective and efficient operation of the foreign exchange system by monitoring—
  - (i) foreign exchange inflows and outflows and amounts remitted;
  - (ii) import and exports of goods and services;
  - (iii) international transactions in goods and services;
  - (iv) international transfers to or from residents and non-residents;
  - (v) profits or dividends received or paid in respect of investments abroad and foreign investment in the Republic;
  - (vi) borrowings and trade credits from non-residents;
  - (vii) investment in the form of equity and debt securities abroad;
  - (viii) receipts and payments of both principal and interest on loans to non-residents;
  - (ix) international money transfers into and out of the Republic; and
  - (x) any other transaction the Bank may prescribe;
- (cc) promote the continuous development of the domestic financial markets and the safe, sound and efficient operation and the development of the financial system;
- (dd) co-operate with or assist other domestic or international regulatory authorities who are in the field of banking or finance or any other field as the Board may approve; and
- (ee) regulate the rate of interest and other charges that a financial service provider and a payment service provider may impose on a financial transaction.

## 6. Prohibited activities

Except as otherwise expressly authorized by this Act, the Bank shall not—

- (a) engage in trade;
- (b) accept shares as security;
- (c) acquire immovable property other than in the ordinary course of business;
- (d) grant an unsecured loan;
- (e) enter into a risk insurance contract other than to further its own interests;
- (f) guarantee a loan, advance or debt of the Government or a public body; or
- (g) participate in the primary auction of Government securities.

## 7. Board of Directors

- (1) The Board of Directors of the Bank consists of the following members:
  - (a) the Governor, as Chairperson;
  - (b) six members appointed by the Minister; and
  - (c) a representative of the Secretary to the Treasury, as an *ex-officio* member.
- (2) The members appointed under subsection (1)(b) and (c), shall be part-time members of the Board.
- (3) A member appointed under subsection (1)(c) shall not—
  - (a) count for the purposes of a quorum;

- (b) vote on any question relating to the deliberations of a meeting of the Board; or
  - (c) be a member of the audit committee of the Board.
- (4) The members of the Board shall elect the Vice-Chairperson from among themselves.
- (5) A person qualifies for appointment as member of the Board if the person has—
- (a) proven integrity;
  - (b) a degree from a recognised higher education institution; and
  - (c) knowledge and experience of at least five years in the field of central banking, economics, banking, finance, law accounting, auditing or other discipline relevant to central banking.
- (6) A person does not qualify for appointment as a member of the Board if that person—
- (a) is an undischarged bankrupt;
  - (b) is legally disqualified from performing the functions of the Board
  - (c) is a Member of Parliament, or performs legislative, executive, judicial functions or holds office in a local authority;
  - (d) is a director, officer, employee or a shareholder in, or owner of, a regulated entity or provides professional services to the Bank or regulated entity;
  - (e) is convicted of an offence and sentenced to a term of imprisonment exceeding six months without the option of a fine;
  - (f) is disqualified or suspended from practising any profession on the grounds of professional misconduct or dismissed from a position of trust due to misconduct;
  - (g) is an employee of Government, except for a representative of the Secretary to the Treasury; or
  - (h) is engaged in active politics.
- (7) The Minister may, remove a member of the Board under subsection (1)(b) from office on the following grounds:
- (a) breach of any provision of this Act;
  - (b) gross misconduct;
  - (c) has been convicted of an offence and sentenced to a term of imprisonment exceeding six months without an option of a fine.
- (8) A member of the Board may resign from office at any time, by giving a notice, in writing, to the Minister.
- (9) The First Schedule applies to the Board.

## 8. Functions of Board

- (1) The Board is the governing body of the Bank.
- (2) Subject to the Constitution and this Act, the functions of the Board are to—
- (a) have oversight over the operations and affairs of the Bank;
  - (b) provide strategic policy direction to the Bank;
  - (c) provide effective governance of the Bank;
  - (d) approve the regulations and regulatory statements to be issued by the Bank;

- (e) approve the Bank's budget;
- (f) approve the annual report;
- (g) approve recommendations specified in any other written law that the Bank is required to make;
- (h) approve the terms and conditions of engagement of the Bank's agents and correspondents;
- (i) establish and close subsidiaries, branch offices and agencies of the Bank;
- (j) approve the policies applicable to the administration and operations of the Bank;
- (k) recommend the fees and allowances for members of the Board, other than the Governor, for approval by the Minister;
- (l) determine the accounting policies and approve the financial statements of the Bank;
- (m) determine and ensure the establishment of an effective risk management structure;
- (n) ensure good corporate governance of the Bank;
- (o) establish special reserves on the books of the Bank;
- (p) establish occupational pension schemes for staff of the Bank in accordance with the relevant law;
- (q) permit the Bank to grant loans to the Bank's staff or guarantee such loans from any financial service provider;
- (r) approve appointment of external auditors of the Bank; and
- (s) approve the charter and the appointment of the head internal audit function of the Bank.

*[Cap. 1]*

## 9. Delegation of functions of Board

The Board may delegate to the Governor any of the Board's functions under this Act.

## 10. Governor

- (1) The Governor is the chief executive officer of the Bank and responsible for the day-to-day management of the affairs of the Bank and is subject to the general or specific directions of the Board.
- (2) The Governor may delegate to the Deputy-Governor or another member of staff or committee of the Bank any functions conferred on the Governor by the Board under [section 9](#).
- (3) The Governor shall hold office for a term of six years and may be re-appointed for a further term of six years.
- (4) The Governor shall submit to the Bank a declaration of the assets and liabilities, businesses and financial interests in the Form set out in the Second Schedule—
  - (a) within thirty days of appointment or of the coming into operation of this Act; and
  - (b) at the expiry or termination of employment irrespective of the reason for termination.
- (5) Where the office of Governor becomes vacant or the Governor is unable to perform the functions of the office due to illness or other cause, the President may appoint a Deputy-Governor to perform the executive functions of the Governor for a period not exceeding twelve months.

## 11. Deputy-Governor

- (1) The President shall appoint two Deputy-Governors.
- (2) A person qualifies for appointment as Deputy-Governor if the person qualifies for appointment as Governor.
- (3) The Deputy-Governor shall serve for a term of five years and may be re-appointed for a further term of five years.
- (4) The Deputy-Governor shall exercise powers and perform functions as the Governor may delegate to the Deputy-Governor.
- (5) The Deputy-Governor shall submit to the Bank a declaration of the assets and liabilities, businesses and financial interests in the Form set out in the Second Schedule—
  - (a) within thirty days of appointment or of the coming into operation of this Act; and
  - (b) at the expiry or termination of employment irrespective of the reason for termination.

## 12. Prohibition of Governor and Deputy-Governor to engage in other business, profession or employment

- (1) Subject to subsection (2), the Governor and the Deputy-Governors shall not, during their tenure of office, engage in any business, profession, or employment, whether remunerated or not which shall interfere or compromise the discharge of their duties.
- (2) Despite subsection (1), the Governor or Deputy-Governor may—
  - (a) act as a member of a board or commission appointed by the Government;
  - (b) serve as a governor, alternate governor, director or member of any organ of any international monetary authority or other international institution established under any agreement or convention to which the Government has acceded, has an interest in, or has given its support or approval; or
  - (c) serve as a member of the board of a corporation established by the Government for the purpose of insuring deposits in a bank or other financial service provider.

## 13. Resignation or removal of Governor or Deputy-Governor

- (1) The Governor or Deputy-Governor may resign from office at any time by giving three months notice in writing to the President.
- (2) A Governor or Deputy-Governor shall be removed from office if the Governor or Deputy-Governor—
  - (a) breaches any provision of this Act;
  - (b) commits gross misconduct;
  - (c) is incompetent;
  - (d) is bankrupt;
  - (e) is legally disqualified from performing their functions; or
  - (f) is convicted of an offence and sentenced to imprisonment for a term of not less than six months without the option of a fine.
- (3) The President shall, where the President considers removing a Governor or Deputy-Governor under this section, appoint a tribunal to inquire into the matter and submit its findings and recommendations to the President.

- (4) The tribunal appointed under subsection (3), shall consist of—
  - (a) one person who holds or has held office as a judge of a superior court, as chairperson; and
  - (b) two other persons with knowledge and experience in the field of central banking, economics, banking, finance, law or other disciplines relevant to central banking.
- (5) The President may, on appointment of the tribunal, grant the Governor or a Deputy-Governor leave of absence.
- (6) The tribunal shall investigate and conclude the question of removing the Governor or Deputy-Governor within fourteen days of commencement of the investigation and submit its report, containing reasons for its recommendation, to the President within seven days of concluding its investigations.
- (7) The President shall remove the Governor or Deputy-Governor from office if the tribunal recommends to the President that the Governor or Deputy-Governor should be removed from office.
- (8) The tribunal shall, as soon as is practicable but not later than thirty days after submitting the report to the President, submit a copy of the tribunal's report to the National Assembly for the National Assembly's information.

#### **14. Staff of Bank**

The Board shall appoint the staff of the Bank that the Bank considers necessary for the performance of its functions.

#### **15. Emoluments and other terms and conditions of service of Governor, Deputy-Governor and other staff**

- (1) The Emoluments Commission shall, on the recommendation of the Minister, determine the emoluments of the Governor and Deputy-Governor.
- (2) The Minister shall determine the terms and conditions of service, other than emoluments, of the Governor and Deputy-Governor.
- (3) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the other staff of the Bank.
- (4) The Board shall determine the terms and conditions of service, other than emoluments, of the other staff of the Bank.
- (5) Despite subsections (1) and (3), the emoluments payable shall not be computed by reference to the profits of the Bank.
- (6) A member of staff engaged in the provision of security services to the Bank and its operations shall not be a member of a trade union.
- (7) For purposes of this section, "security services" includes the protection of tangible and intangible assets, provision of security to Bank employees and providers of outsourced services.

### **Part III – Monetary unit, banknotes and coin issue**

#### **16. Currency of Republic**

- (1) The units of currency for the Republic is the Kwacha and Ngwee.
- (2) The denomination of money in the currency of the Republic is the Kwacha, abbreviated as "K" and the ngwee, abbreviated as "N" or as "n".
- (3) One ngwee is the one-hundredth part of the Kwacha.

## 17. Authority to issue bank notes and coins

- (1) The right to issue banknotes, coins and other forms of the currency considered appropriate in the Republic vests exclusively in the Bank.
- (2) The Bank may, where the Board considers it necessary and in consultation with the Minister, issue coins and banknotes of any denomination for purposes other than monetary use and may designate those coins and banknotes to be legal tender within the Republic and every such issue shall be published in the *Gazette*.
- (3) A person, other than the Bank, who issues in the Republic notes or coins or other documents or token which are payable to bearer on demand or purports to be the currency of the Republic or the currency of any other country commits an offence and is liable, on conviction, to a fine not exceeding one million penalty units or to imprisonment for a term not exceeding ten years, or to both.

## 18. Legal tender

- (1) The Kwacha and ngwee is the sole legal tender in the Republic.
- (2) A tender of payment of money shall be legal tender if it is in notes, coins or such other form considered appropriate by the Bank and is made or issued by the Bank under this Act.
- (3) A banknote or coin issued as legal tender by the Bank and not withdrawn from circulation shall be accepted, at the banknote or coin face value, in payment of all domestic transactions.
- (4) Subject to subsection (5), a person who contravenes this section commits an offence and is liable, on conviction, to a penalty not exceeding five million penalty units or to imprisonment for a term not exceeding five years, or to both.
- (5) The Bank may impose an administrative sanction for a violation of this section.

## 19. Currency features

The Bank shall, in consultation with the Minister, determine by regulation the face value, measures, weights, designs and other features of a banknote and coin that is legal tender.

## 20. Currency production safekeeping and inventory

- (1) The Bank shall—
  - (a) print banknotes and mint coins;
  - (b) ensure the security and safekeeping of unissued banknotes and coins;
  - (c) undertake the custody and destruction of plates, dies and withdrawn banknotes and coins; and
  - (d) issue currency in a form it considers appropriate.
- (2) The Bank shall directly administer the currency reserve inventory and ensure the regular supply of banknotes and coins in order to meet the currency requirements of the economy.

## 21. Currency exchange

- (1) Subject to this section, the Bank may, on the request of any person, exchange, without charge or commission, banknotes and coins that are mutilated or damaged.
- (2) The Bank may determine and publish in the *Gazette* the conditions under which mutilated or otherwise damaged banknotes may be exchanged by the Bank.

- (3) The Bank shall not, except in its sole discretion, exchange banknotes or coins that are perforated, cut, clipped, broken or otherwise marked or defaced or the design of which is not recognisable.

## 22. Management of unfit currency

- (1) The Bank shall withdraw and destroy unfit currency.
- (2) For the purposes of this section, "unfit currency" means currency that has lost its security features and includes soiled, defaced, illegible or perforated currency and currency that is mutilated in any other way.

## 23. Exchange of forged, lost, or stolen banknotes or coins

- (1) A person shall not be entitled to recover from the Bank the value of any forged, lost, stolen banknotes or coins.
- (2) Despite subsection (1), the Bank shall be liable for any loss, suffered by a person, arising out of the negligence or misconduct of a member of the Board, staff or agent of the Bank committed in the course of that person's official duties.

## 24. Accounting treatment of currency issued

The aggregate amount of circulating banknotes and coins shall be noted in the accounts of the Bank as a liability of the Bank, which liability shall not include banknotes and coins in the currency reserve inventory.

## 25. Currency recall

- (1) The Bank may call in, and withdraw from circulation, any banknotes or coins that are circulating within the Republic, and may issue other banknotes or coins of equivalent amounts in exchange.
- (2) The Minister shall, by statutory instrument, prescribe the manner of withdrawal from circulation of banknotes or coins under subsection (1), and the period during which the banknotes or coins shall be presented for exchange, and the offices of the Bank where the banknotes or coins are to be presented.
- (3) At the end of the exchange period under subsection (2), banknotes and coins called in for exchange shall cease to be legal tender.

## 26. Counterfeit notes and coins

- (1) The Bank shall cause the enforcement of any law, in the Republic, relating to the forgery of notes or counterfeiting of banknotes and coins.
- (2) A certification by a duly authorized staff of the Bank that an item in question is or is not genuine shall be *prima facie* evidence of that fact in any legal proceedings in the Republic.
- (3) Where a person is convicted of an offence under this Act or any other written law relating to the forgery of banknotes or counterfeiting of banknotes and coins, the court shall, in addition to the penalty imposed, order that a banknote, coin, article, instrument, machinery or equipment used in the commission of the offence be surrendered to the Bank for destruction or disposal.

## Part IV – Monetary policy

### 27. Monetary Policy Committee

- (1) There is established a Monetary Policy Committee of the Bank.



- (2) The Monetary Policy Committee shall formulate the monetary policy of the Republic on behalf of the Bank.
- (3) The Bank shall implement the monetary policy formulated by the Monetary Policy Committee under subsection (2) in order to achieve and maintain price stability.
- (4) The formulation and implementation of the monetary policy under this section shall be conducted autonomously without any external influence.
- (5) The Monetary Policy Committee shall regulate its own procedure.

## **28. Composition of Monetary Policy Committee**

- (1) The Monetary Policy Committee consists of the following members:
  - (a) the Governor, who shall be the chairperson;
  - (b) the Deputy-Governors;
  - (c) one person appointed by the Minister;
  - (d) two persons appointed by the Board; and
  - (e) three members of staff of the Bank, in senior management appointed by the Governor each—
    - (i) responsible within the Bank for research or economic policy;
    - (ii) responsible within the Bank for monetary policy operations; and
    - (iii) responsible within the Bank for financial stability.
- (2) The Deputy-Governor responsible for the monetary policy shall be the vice-chairperson of the Monetary Policy Committee.
- (3) A person appointed under subsection (1) shall—
  - (a) before performing the functions of a member of the Monetary Policy Committee take an oath or affirmation, and sign the form set out in the Third Schedule; and
  - (b) during the performance of the functions as a member of the Monetary Policy Committee, be subject to the Code of Conduct set out in the Fourth Schedule.
- (4) A person appointed by the Minister and Board under subsection (1)(c) and (d), respectively—
  - (a) shall not be a member of staff of the Bank, a member of the Board or a public officer;
  - (b) shall be a person of recognised professional, academic standing and experience in the fields of economics, banking or other fields relevant to central banking;
  - (c) shall hold office for a period of three years;
  - (d) shall be remunerated at a rate that the Emoluments Commission may, on the recommendation of the Minister, determine;
  - (e) shall be subject to the provisions relating to disqualification and removal from office of the members of the Board; and
  - (f) may be removed from office for contravention of the Code of Conduct set out in the Fourth Schedule.

## **29. Publication of statement of decisions**

- (1) The Monetary Policy Committee shall, after each meeting, publish in a manner that the Bank considers appropriate, a statement of its decisions.

- (2) The Monetary Policy Committee shall, at least once a year and in addition to the publication of the statement under subsection (1), publish a Monetary Policy Report.

### **30. Publication of minutes**

The Monetary Policy Committee may, after each meeting, publish minutes of the meeting in a manner that the Bank considers appropriate.

## **Part V – Financial stability**

### **31. Financial Stability Committee**

- (1) There is established a Financial Stability Committee for the Bank.
- (2) The Financial Stability Committee shall formulate the macro-prudential policies of the Republic on behalf of the Bank.
- (3) The Bank shall implement the macro-prudential policies formulated by the Financial Stability Committee under subsection (2) in order to achieve and maintain financial stability.
- (4) The formulation and implementation of the macro-prudential policies under this section shall be conducted autonomously without any influence.
- (5) The Financial Stability Committee shall regulate its own procedure.

### **32. Composition of Financial Stability Committee**

- (1) The Financial Stability Committee consists of the following members:
  - (a) the Governor, who shall be the chairperson;
  - (b) the Deputy-Governors;
  - (c) a representative of the Secretary to the Treasury;
  - (d) a representative of the authority responsible for regulating and supervising the securities market;
  - (e) a representative of the authority responsible for regulating and supervising the pensions and insurance market;
  - (f) two persons appointed by the Board, who shall—
    - (i) not be members of staff of the Bank, members of the Board of Directors or public officers;
    - (ii) be persons of recognised professional, academic standing and experience in the fields of economics, banking, finance or other fields relevant to central banking;
    - (iii) hold office for a period of three years; and
    - (iv) be remunerated at a rate that the Emoluments Commission may, on the recommendation of the Minister, determine;
  - (g) three members of staff of the Bank, in senior management appointed by the Governor each—
    - (i) responsible within the Bank for research or economic policy;
    - (ii) responsible within the Bank for financial stability; and
    - (iii) responsible within the Bank for legal matters.

- (2) The Deputy-Governor responsible for financial stability shall be the vice-chairperson of the Financial Stability Committee.
- (3) A person appointed under subsection (1) shall—
  - (a) before performing the functions of a member of the Financial Stability Committee, take an oath or affirmation, and sign the Form set out in the Third Schedule; and
  - (b) during the performance of the functions as a member of the Financial Stability Committee, be subject to the Code of Conduct set out in the Fourth Schedule.
- (4) The members of the Financial Stability Committee under subsection (1)(c), (d) (e) and (f)—
  - (a) shall be subject to the provisions relating to disqualification and removal from office of the members of the Board; and
  - (b) may be removed from office for contravention of the Code of Conduct set out in the Fourth Schedule.

### **33. Cooperation with other supervisory authorities**

The Bank may, for the purposes of promoting financial stability under this Part—

- (a) enter into arrangements to co-operate with a supervisory authority and co-ordinate financial stability measures with the supervisory authority; and
- (b) obtain any information or document from, or share any information or document with, any other supervisory authority if the Bank considers it necessary that the information or document be so obtained or shared.

### **34. Publication of Financial Stability Report**

- (1) The Financial Stability Committee shall, after each meeting, publish in a manner the Bank considers appropriate, a statement on the financial stability of the Republic.
- (2) The Financial Stability Committee shall, at least once a year and in addition to the statement under subsection (1), publish a Financial Stability Report.

## **Part VI – Bank's relationship with Government**

### **35. Advisor to Government**

- (1) The Bank shall act as an economic advisor to the Government on matters within the competence of the Bank.
- (2) The Minister may request the Bank to render advice and furnish reports on matters relating to the objectives and functions of the Bank.

### **36. Banker to Government**

- (1) Subject to this Act, the Bank is the banker to the Government on terms and conditions that may be agreed between the Bank and the Minister.
- (2) Despite subsection (1) the Government—
  - (a) may appoint a financial institution or bank to act as its agent in the execution of its banking transactions;
  - (b) may maintain cash balances with, and generally use the services of, a financial institution or bank; and

- (c) shall provide information to the Bank on the cash balances maintained in banks and other financial institutions.

### **37. Fiscal Agent**

The Bank—

- (a) is the fiscal agent for the Government; and
- (b) may serve as a depository or financial intermediary for any international financial institution of which the Republic may be a member.

### **38. Advances to Government**

The Bank shall not advance funds to the Government except as provided in [section 39](#) and on terms and conditions that may be agreed between the Bank and the Minister.

### **39. Limitations on lending to Government**

- (1) Subject to [section 38](#), the Bank shall not directly or indirectly, at any time, give credit to the Government by way of short term advances, purchases of securities in a primary issue, or any other form or extension of credit that exceeds fifteen percent of the ordinary revenue of Government in the previous financial year.
- (2) If, in the opinion of the Bank, the limitation provided for in subsection (1), is likely to be exceeded, the Bank shall submit to the Minister a report stating the—
  - (a) details of the amounts then outstanding of the funds advanced and credit facilities extended by the Bank and the Bank's holding of securities under subsection(1);
  - (b) causes which are likely to lead to such limitation being exceeded; and
  - (c) Bank's recommendation to forestall or otherwise remedy the situation.
- (3) The Bank shall continue to make further reports and recommendations to the Minister on the matters under subsection (2), at intervals of not more than six months until a time that, in the Bank's opinion, the situation has been rectified.
- (4) Where the limitation provided for in subsection (1) is exceeded, the Bank shall immediately advise the Minister of that fact and shall not allow any further increase, whether directly or indirectly, in the aggregate amount of the funds advanced and credit facilities extended by the Bank and the Bank's holding of securities under subsection (1).
- (5) For purposes of this section, "short term advances" means lending to Government for a period not exceeding twelve months.

### **40. Acquisition of securities issued or guaranteed by Government**

- (1) The Bank may, in the Bank's implementation of monetary policy—
  - (a) operate in the secondary market by purchasing and selling debt securities issued by the Government; and
  - (b) issue and trade its own debt instruments in the market.
- (2) Except for purposes of implementation of monetary and financial stability policies, the Bank may not purchase, for its own account, debt securities issued or guaranteed by the Government or other debt securities prescribed by the Bank.

#### 41. Management of public debt

The Bank shall act as an agent for the Government in the payment of interest and principal debt in respect of the issue and management of the public debt of the Republic, when authorized by the Minister or by law to do so, and on terms and conditions that may be agreed by the Minister and the Bank.

#### 42. Consultation and exchange of information

- (1) Without prejudice to the powers of the Bank to formulate and implement monetary policy and to any other provisions of this Act, the Bank shall consult with the Minister, when necessary, to ensure co-ordination between monetary and fiscal policies.
- (2) The Minister may, in writing, convey to the Bank the general economic and financial policy of the Government.
- (3) The Bank and the Government shall agree the terms on which the Government or any Government department or agency shall supply any financial and economic information or documentation that the Bank may reasonably require for the purpose of discharging its functions under this Act.

### Part VII – Bank's relationship with financial service providers

#### 43. Banker to banks and financial institutions

The Bank may operate accounts for banks and financial institutions on terms and conditions, that the Board may determine.

#### 44. Bank's service to financial service providers

- (1) The Bank may purchase from, sell to, discount and rediscount, from banks or financial institutions on terms and conditions that the Bank may determine, any of the following:
  - (a) bills of exchange and promissory notes drawn or made of types approved by the Bank;
  - (b) Government securities; and
  - (c) any other instrument approved by the Bank.
- (2) Subject to subsection (3), the Bank may grant advances to banks or financial institutions, whether by loans or overdrafts, for periods not exceeding one hundred and eighty days and secured by—
  - (a) instruments specified in subsection (1);
  - (b) warehouse warrants and documents of title issued in respect of staple commodities or other goods duly insured, except that the Bank shall determine the maximum percentage of advances in relation to the current value of the commodities or goods;
  - (c) holdings of any assets the Bank is permitted to buy, sell, or deal in under this Act; or
  - (d) securities issued or guaranteed by the Government.
- (3) An advance under subsection (2) shall not be made available to a bank or financial institution if the total of advances made by the Bank to the bank or financial institution cumulatively is equal to or exceeds one hundred percent of the deposit liabilities of that bank or financial institution.
- (4) Despite subsections (1) and (2), the Bank may in exceptional circumstances—
  - (a) grant advances or contingent commitments to banks or financial institutions if, in the opinion of the Bank, the advance or commitment is necessary having regard to the financial stability and the financial condition of the bank or financial institution; or

- (b) subject to subsection (5), grant advances or contingent commitments to a bank or financial institution in distress if, in the opinion of the Bank, the bank or financial institution—
  - (i) does not constitute a systemic risk to the financial sector at market price; and
  - (ii) constitutes a systemic risk to the financial sector at a price that the Bank, after consultation with the Minister, considers appropriate.
- (5) The Bank may grant advances and contingent commitments under subsection (4)(b) if—
  - (a) the Bank is satisfied that the bank or financial institution in distress shall be able to repay the amount granted, including any additional costs, and that adequate arrangements regarding the repayment have been made or;
  - (b) in case of subsection (4)(b)(ii), the Minister—
    - (i) agrees, in writing, with the advance or commitment within twenty-four hours of a proposal having been submitted by the Bank to that effect; and
    - (ii) has confirmed, in writing, that separate funds or debt securities in bearer form with interest at market rates shall be made available by the Government to cover the advance or full amount of the commitment provided in the event that it is realised.
- (6) Despite this section, the Bank may, without providing any reason, refuse to discount any of the instruments under subsection (1).

#### 45. Publication of Bank's rates

The Bank may fix and publicly announce the rates for discounts, re-discounts, advances, loans or overdrafts.

#### 46. Cash reserve requirement for financial service provider

- (1) The Bank may, by *Gazette* and by written notice to the main office of each financial service provider in the Republic, prescribe—
  - (a) the reserves required to be maintained by a financial service provider, including marginal required reserves, against deposit and other similar liabilities of a bank that may be specified for this purpose; and
  - (b) the proportion of reserves a financial service provider may maintain by way of cash holdings or deposits in a prescribed account with the Bank, or both.
- (2) Subject to subsection (3), the Bank may prescribe different reserve ratios for different classes of deposits and other similar liabilities and may specify the method of their computation.
- (3) The reserve ratios specified under subsection (2) shall be uniform for all financial service providers in the same class but the ratios may differ between different classes of financial service providers and a prescription of, or change in, the required reserve ratios shall be effective as prescribed.
- (4) A financial service provider may, subject to the charges prescribed by the Bank, withdraw the required reserves held with the Bank for the purpose of meeting its existing liabilities and may further serve as a basis for the clearance of cheques and the settlement of balances among financial service providers, except that the bank shall repay the withdrawal within the period prescribed by the Bank.

#### 47. Minimum liquidity asset ratios and reserve requirements

- (1) The Bank may, by *Gazette*—
  - (a) determine the minimum ratio of liquid assets which a financial service provider is required to hold;

- (b) determine the minimum reserve balance which a financial service provider shall maintain with the Bank;
  - (c) determine the class or classes of assets which qualify as liquid assets under this section; and
  - (d) specify the class or classes of liabilities against which the ratio requirement may be calculated.
- (2) A financial service provider shall, where the Bank at any time increases any of the ratios under subsection (1)(d), be given a specific period in which to comply.
- (3) The Bank may require a financial service provider to furnish information that the Bank may consider necessary to satisfy itself that the financial service provider concerned is complying with this section.
- (4) The Bank may, where the Bank holds a balance in an account for a depositor who is subject to a regulation under subsection (1)(a) or (b), pay interest on the balances, on terms and conditions, that the Bank considers appropriate.
- (5) A financial service provider shall, where a financial service provider that is subject to subsection (1)(a) or (b) fails to maintain a balance in the financial service provider's account with the Bank sufficient to comply with that financial service provider's duty under that subsection, pay to the Bank daily interest calculated on the amount that the financial service provider's balance is deficient at the rate determined by the Bank for that purpose.
- (6) The Bank may impose on a financial service provider that fails to maintain required reserves in the appropriate ratio prescribed under this section a penalty rate determined by the Bank on the amount of the deficiency.
- (7) A penalty rate under subsection (6) is payable to the Bank on the date specified by the Bank and may be recovered by deduction from any balance held by the financial service provider with the Bank.

#### **48. Disclosures by financial service providers**

- (1) The Bank may, by *Gazette* and a notice in writing to the main office in the Republic of a financial service provider, determine the manner of disclosure to the public of—
- (a) the effective annual interest rate payable in respect of deposits made with the financial service provider;
  - (b) the terms of obtaining credit including the effective annual interest rate payable in respect of the credit obtained; and
  - (c) fees, commissions and other charges payable.
- (2) The Bank may apply the requirements under subsection (1) to a financial service provider whose principal objective is the extension of credit to the public generally or to a participating group, during any calendar year.
- (3) A notice issued under this section shall come into effect on a date specified in the notice, which shall be a date not earlier than five working days after the issue date, except that the Bank may, in the notice, differentiate among financial service providers in respect of the items set out in subsection (1), depending on the nature of the business.
- (4) A financial service provider that is in breach of the disclosure requirements under subsection (1) may be required to pay to the Bank a penalty, for each violation, as prescribed in the *Gazette*.

#### **49. Consultation with financial service providers**

The Bank may, at any time, consult with financial service providers on any matter that the Bank considers necessary.

## 50. Money market and foreign exchange market

- (1) The Bank may issue regulatory statements for the purposes of regulating, developing, or maintaining orderly conditions or the integrity of, the money market, the foreign exchange market or the market for the derivatives related to the currencies, securities and other financial instruments traded in these markets.
- (2) Without prejudice to the generality of subsection (1), the regulatory statements may be issued to—
  - (a) licensed participants or dealers in the money market, foreign exchange market and market for derivatives; and
  - (b) ensure orderly dealings in the markets under paragraph (a).

## 51. Regulation and supervision of financial service providers

The Bank may perform regulatory and supervisory functions and exercise powers that may be assigned to, or conferred on the Bank, by the Banking and Financial Services Act, 2017 or any other written law.

[Act [No. 7 of 2017](#)]

## Part VIII – International reserves and foreign exchange operations

### 52. Exchange rate policy

- (1) Without prejudice to the provisions of this Act, the Government shall, in consultation with the Bank, formulate the exchange rate policy of the Republic.
- (2) The Bank shall implement the exchange rate policy.

### 53. Maintenance of official international reserves

- (1) The Bank shall, on the terms and conditions that the Board may determine, hold the official international reserves which shall consist of the following:
  - (a) gold;
  - (b) foreign exchange in the form of banknotes or coins or bank balances held abroad, denominated in currencies and located in countries that the Board may approve;
  - (c) the facilities to make reserve tranche purchases from the International Monetary Fund;
  - (d) holding of special drawing rights;
  - (e) bill of exchange and promissory notes denominated and payable in foreign currencies and in places as the Board may approve;
  - (f) treasury bills and other securities denominated in foreign currencies, issued or guaranteed by foreign governments and payable in places that the Board may approve;
  - (g) securities issued or guaranteed by international financial institutions specified by the Board; and
  - (h) other international reserve asset that the Board may determine.
- (2) The Bank shall endeavour to maintain the official international reserves under subsection (1), at a level which is adequate for achieving the functions of the Bank under this Act.



#### 54. Bank depository of external assets

The Bank shall be the sole depository of official international reserves and may designate agents with whom these reserves may be held.

#### 55. Authorized transactions and limitation of contracting parties

- (1) Despite the generality of [section 5\(t\)](#), the Bank may, for purposes of maintaining international reserves and conducting foreign exchange operations—
  - (a) buy, sell or deal in gold coins or bullion or other precious metals;
  - (b) buy, sell, or deal in foreign exchange, using any of the instruments commonly used by a bank;
  - (c) purchase and sell money market instruments and other securities issued or guaranteed by foreign governments or international institutions;
  - (d) open and maintain accounts outside the Republic;
  - (e) open and maintain accounts and act as agents or correspondents for the institutions under subsection (2)(c) and (d); and
  - (f) enter into any other transaction authorized by the Board.
- (2) The Bank shall, for the purposes of subsection (1), contract with the following institutions:
  - (a) the Government and its boards and agencies;
  - (b) a financial service provider operating within or outside the Republic;
  - (c) a foreign central bank or monetary authority and its agencies;
  - (d) a foreign financial institution;
  - (e) a supranational institution; and
  - (f) other institution that the Board may determine to be appropriate.

### Part IX – Regulation and supervision of payment systems

#### 56. Mandate over payment system

- (1) The Bank shall designate, manage, regulate and supervise the payment system in order to—
  - (a) ensure its proper functioning so as to preserve the safety, stability, integrity, transparency, accountability, effectiveness and efficiency of payment, clearing and settlement systems and the financial system as a whole;
  - (b) ensure fair, open and equitable access to the payment system; and
  - (c) oversee payment, clearing and settlement systems and their participants.
- (2) The Bank may operate accounts for payment service providers on terms and conditions that the Board may determine.

## 57. Regulation and supervision of payment system

The Bank may perform regulatory and supervisory functions and exercise powers that may be assigned to, or conferred on the Bank by the National Payment Systems Act, 2007 or any other written law regulating payment systems.

[Act [No. 1 of 2007](#)]

## Part X – General provisions

### 58. Furnishing of information

- (1) The Bank may require a person to furnish any information and data that the Bank may specify to perform the Bank's functions under this Act.
- (2) The Bank may publish in aggregate form classes of persons determined in accordance with the nature of their business the information or data to be furnished under subsection (1), except that the Bank shall not publish information that would disclose the affairs of a customer of a financial service provider unless the consent of that customer has been obtained in writing.
- (3) Where the Bank believes that any information or data supplied by any person for the purposes of subsection (1), is, or maybe, inadequate or inaccurate, the Bank may, by notice in writing to that person, require that information or data to be audited by an auditor approved by the Bank.

### 59. Oath or affirmation of secrecy

A person appointed under this Act or employed by the Bank shall take and subscribe before a Commissioner of Oaths an oath or affirmation of secrecy as set out in the Fifth Schedule of this Act.

### 60. Confidentiality

- (1) An employee of the Bank, member of the Board, member of the Monetary Policy Committee, member of the Financial Stability Committee, or a person appointed under this Act shall not disclose to any person any confidential information acquired in the course of the performance of their duties, relating to the affairs of the Bank or a financial service provider except—
  - (a) for purpose of the performance of their duties or the exercise of their powers specified under this Act or any other written law;
  - (b) when required to do so by a court or under any written law; or
  - (c) for the purposes of meeting the requirements of an agreement or understanding by the Bank with supervisory authority.
- (2) Subsection (1) applies to any person who receives information disclosed in terms of that subsection.
- (3) The Bank may share confidential information with other central banks, local and international institutions subject to any conditions regarding the use of that information by the recipient that the Bank considers necessary.
- (4) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to a term of imprisonment not exceeding five years, or to both.

## 61. Examination of financial or payment system service providers

The Bank shall carry out, periodically or at times that the Bank may consider necessary, an examination of any financial service provider or payment system provider in accordance with the Banking and Financial Services Act, 2017, the National Payment Systems Act, 2007 or any other written law.

*[Act No. 7 of 2017; Act No. 1 of 2007]*

## 62. Exemption from taxes

- (1) The Bank shall be exempt from the payment of any taxes levied under the Income Tax Act or any other law in respect of its profits, operations, capital, property or any transaction, deed, agreement or promissory note to which it is a party.

*[Cap. 323]*

- (2) The Bank shall be exempt from the payment of taxes or any duties in respect of—
  - (a) notes or coins issued as currency under this Act; and
  - (b) any other equipment or machinery connected to the Bank's operations.

## 63. Restriction on execution against property and assets of the Bank

Despite anything to the contrary contained in any written law, where any judgement or order has been obtained against the Bank, an execution or attachment, or similar process shall not be issued against the Bank or against any property or asset of the Bank, except that the Bank may cause to be paid amounts that may, by the judgement or order, be awarded against the Bank to the person entitled to the judgment or order.

## 64. Restriction of liability

A liability shall not lie against the Bank for exercising a statutory duty imposed on the Bank under this Act or by any written law.

## 65. Fees and recovery of expenses

The Bank may prescribe the fees to be charged and expenses to be recovered by the Bank arising from the carrying out of the Bank's duties or operations under this Act or any other written law.

## 66. Offences relating to directorship and acceptance of gifts

- (1) A member of the Board who acts as a delegate or representative of any commercial, financial, industrial or other person, or receives or accepts directions in relation to that member's duties under this Act from that commercial, financial, industrial or other person commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to a term of imprisonment not exceeding five years, or to both.
- (2) A member of the Board who does not fully disclose to the Board any commercial, financial, industrial or other interest that the member or the member's relative may have and that becomes the subject of consideration or action by the Board commits an offence.
- (3) A member of the Board or any officer or employee of the Bank that accepts any gift or advantage personally or on behalf of a family, business or financial connection, and the acceptance of that gift or advantage could result in or give the appearance of partiality in the performance of that member, officer or employee's duties under this Act, commits an offence.

- (4) A person who is convicted of an offence under subsection (2) and (3) is liable on conviction—
- (a) for a first offence, to imprisonment for a term not exceeding fourteen years;
  - (b) for a second or subsequent offence, to a term of imprisonment of not less than five years but not exceeding fourteen years; and
  - (c) in addition to any other penalty imposed under this section, to forfeiture to the State of any pecuniary resource, property, advantage, profit or gratification received in the commission of the offence under this section.

## 67. Offences relating to currency

- (1) A person who commits any of the following acts or omissions commits an offence:
- (a) the counterfeiting or performing of any part of the process of counterfeiting a note or coin of the Bank that is legal tender, whether committed within or outside the Republic;
  - (b) the counterfeiting or unlawful alteration or issuance of a note or coin of the Bank or anything purporting to be a note or coin of the Bank;
  - (c) the uttering, tendering, accepting or having in the person's possession a note or coin that has been counterfeited, or unlawfully altered, issued, produced or reproduced knowing, or reasonably expected to have known, it to be counterfeited, forged or unlawfully altered, issued, produced or reproduced;
  - (d) without the authority of the Bank, produces, reproduces, engraves or marks on any material any words, figures, letters, marks, lines or devices, the print of which resembles any words, figures, letters, marks, lines or devices peculiar to and use dinoronany note or coin of the Bank that is legal tender;
  - (e) without the authority of the Bank, uses, makes, mends, obtains or knowingly possesses—
    - (i) any material on which has been produced, reproduced, engraved or made any such words, figures, letters, marks, lines or devices; or
    - (ii) any equipment, including any tool, instrument or machinery, capable of being used for the purpose of the commission of any of the offences contemplated in paragraphs (a), (b) or (d);
  - (f) the wilful defacing, soiling or damaging of a note or coin of the Bank, or without a reasonable excuse the possession of a defaced, soiled or damaged note or coin of the Bank, or, without the authority of the Bank, writes or places any drawing on a note or coin of the Bank that is legal tender or attaching to the note or coin anything in the nature of an advertisement;
  - (g) the removing from the premises where banknotes or coin are manufactured under this Act, without lawful authority or excuse, any blank or partially printed banknote paper, printing plate, blank metal sheet, ink, matrix, master punch, die, collar, piercing and cutting tool, pattern or mould, or any other tool, machine, engine, instrument or thing used or employed in, or in connection with, the printing of notes, minting of coins, or any useful part of these objects, or any blank or defective coin of the size, shape and metal composition of any coin of which the coinage is authorized by this Act, or any coin or bullion;
  - (h) the possession, without lawful authority or excuse, of any of the items specified under paragraph (g);
  - (i) the fraudulent insertion or use in a machine that vends merchandise or services or collects fares or tolls, of anything that is intended to pass for a banknote, coin or the token of value that the machine is designed to receive in exchange for the merchandise, service, fare or toll;

- (j) the gilding, silvering or colouring of a piece of metal of a size or figure fit to be coined for the purpose of minting the metal into counterfeit coin;
  - (k) the making of a piece of metal into a size or figure fit to be minted with intent to facilitate the minting of a counterfeit coin or for the purpose of doing so;
  - (l) the impairing, diminishing or lightening of any coins of the Bank with intent that the impaired, diminished or lightened coin may still pass as a coin of the Bank;
  - (m) the possession, without lawful authority or excuse, the disposing of, or dealing with, any filing or clipping, or any gold or silver bullion or any gold or silver in dust, solution or other form, produced or obtained by impairing, diminishing or lightening a coin of the Bank, knowing that it has been so produced or obtained; and
  - (n) producing, uttering, tendering, accepting or possessing any counterfeit foreign note or coins in the Republic.
- (2) This section shall be complementary to and not in derogation of the provisions of the Penal Code relating to forgery, coining, counterfeiting and similar offences.

*[Cap. 87]*

- (3) A person convicted of an offence under subsection (1) is liable, on conviction—
- (a) in the case of an offence under paragraphs (a), (b), (c), (d), (e), (l), (m) or (n), to a fine not exceeding one million five hundred thousand penalty units or to a term of imprisonment not exceeding fifteen years, or to both;
  - (b) in the case of an offence under paragraphs (f), (g), (h), (j) or (k), to a fine not exceeding one million penalty units, or to a term of imprisonment not exceeding ten years, or to both; and
  - (c) in the case of an offence under paragraph (i), to a penalty which may in law be imposed for the crime of fraud.
- (4) For the purposes of this section—
- (a) "bullion" means any gold, platinum, silver, nickel, gold alloys, platinum alloys, silver alloys, nickel alloys or bronze or other minting alloys in the form of ingots, bars, strips, sheets, scissel, cuttings, granules, rejected coins, blanks, filings, sweepings, dross, scrap or wire;
  - (b) "counterfeit coin" means any coin, other than a coin of the Bank, resembling or apparently intended to resemble or pass for a coin of the Bank, and includes a coin of the Bank prepared or altered so as to resemble or pass for coin of a higher denomination;
  - (c) "counterfeit banknotes" means any banknote, other than a banknote of the Bank, resembling or apparently intended to resemble or pass for a banknote of the Bank, and includes a banknote of the Bank prepared or altered so as to resemble or pass for a banknote of a higher denomination;
  - (d) "counterfeiting" includes the making of or a reproduction of a banknote or coin or a counterfeit by means of a computer, a photocopy machine or a photographic technique, minting, stamping, casting or milling or any other process intended to create a reproduction of a banknote or coin;
  - (e) "produce" or "reproduce" includes the production or reproduction of a banknote or coin by means of printing, photography, photocopying or any other forms of copying, enlargement, drawing or computer techniques, or the publishing of the banknote or coin so produced or reproduced or making of any tooling, process, method, metals or things, that would be used in the production or reproduction of the banknote and coin; or
  - (f) a banknote and a coin shall be regarded as defective if it has been wrongly manufactured and would accordingly be unfit for issuance as a proper banknote and a coin in accordance with

the standards of manufacture applied by the institution entrusted with the manufacture of banknotes and coins for the purposes of this Act.

#### **68. Offences relating to non-disclosure of information or furnishing of false information**

- (1) A regulated entity or their respective officers and agents or any other person to whom sections 48 and 60 on disclosure of information are applicable commits an offence if they—
  - (a) supply false information or fail to furnish any information required by the Bank; or
  - (b) furnish false information to the public.
- (2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding five hundred thousand penalty units or to a term of imprisonment not exceeding five years, or to both.

#### **69. General penalty**

A person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to a term of imprisonment not exceeding five years, or to both.

#### **70. Administrative penalties**

- (1) The Bank may impose an administrative penalty on a person for failure to comply with a provision of this Act which is not an offence.
- (2) An administrative penalty shall not exceed the amount prescribed by the Minister, by statutory instrument, for each day during which the failure continues.
- (3) An administrative penalty shall be paid to the Bank within the period prescribed by the Minister.
- (4) If a person fails to pay an administrative penalty within the stipulated time under subsection (3), the Bank may, by way of civil action in a competent court, recover the amount of the administrative penalty from that person as an amount due and owing to the Bank.

#### **71. Offences by principal officers of body corporate or unincorporate body**

Where an offence under this Act is committed by a body corporate or unincorporate body, with the knowledge, consent or connivance of a director, manager or shareholder of that body corporate or unincorporate body that director, manager or shareholder is liable, on conviction, to the penalty specified for the offence.

#### **72. Liquidation, dissolution or winding up of Bank**

The Bank shall not be liquidated, dissolved or wound up other than by the Constitution.

*[Cap. 1]*

#### **73. Regulatory statement**

The Bank may issue regulatory statements for or with respect to any matter that by this Act is required or permitted by the Bank, or that is necessary to be prescribed for purposes of carrying out or giving effect to this Act.

#### **74. Regulations**

- (1) The Minister may, on the recommendation of the Bank, make Regulations for the better carrying out of the provisions of this Act.

- (2) Despite the generality of subsection (1), the Regulations may provide for any contravention that a person is liable to an administrative penalty as prescribed or to a fine not exceeding one million penalty units or to a term of imprisonment not exceeding ten years, or to both.

## **75. Repeal of Act No. 43 of 1996 and savings and transitional provisions**

- (1) The Bank of Zambia Act, 1996, is repealed.
- (2) Despite subsection (1), the Sixth Schedule applies to the savings and transitional arrangements of the Bank.
- (3) Despite subsection (1), a person who immediately before the commencement of this Act, held office as a member of the Board shall hold office as a member of the Board for a period of six months after which the Minister shall appoint the members of the Board in accordance with this Act.

## **First Schedule (Sections 3(2) and 7(9))**

### **Administration of Bank**

#### **Part I – Board of Bank**

##### **1. Seal of Bank**

- (1) The seal of the Bank shall be such device as may be determined by the Board and shall be kept by the Governor or an officer designated by the Governor.
- (2) The Board may use a wafer or rubber stamp in lieu of the seal.
- (3) The affixing of the seal shall be in accordance with a resolution of the Board and shall be authenticated by a minimum of two members of the Board.
- (4) A contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without a seal on behalf of the Bank by the Governor, Deputy-Governor or another member of the Board generally or specifically authorized by the Board in that behalf.
- (5) Any document purporting to be a document under the seal of the Bank or issued on behalf of the Bank shall be received in evidence and shall be deemed to be so executed or issued, without further proof, unless the contrary is proved.

##### **2. Tenure of office and vacancy**

- (1) Subject to the other provisions of this Act, a member of the Board under section 7(1)(b) shall hold office for a term not exceeding three years and may be re-appointed for a term not exceeding three years.
- (2) The office of a member of the Board becomes vacant if that member—
  - (a) dies;
  - (b) is adjudged bankrupt;
  - (c) is absent from three consecutive meetings of the Board of which the member of the Board has had notice, without the prior approval of the Board;
  - (d) resigns from office;
  - (e) is removed from office in accordance with this Act;
  - (f) is legally disqualified from performing the functions of a member; or

- (g) is convicted of an offence under this Act or any other written law and is sentenced to imprisonment for a term exceeding six months without the option of a fine within a period of five years preceding the appointment.
- (3) Subject to the other provisions of this Act, a member of the Board shall, on the expiration of the period for which the member of the Board is appointed, continue to hold office until another member of the Board, is appointed to succeed that member, but in no case shall the further period exceed three months.
- (4) The Minister shall, where the office of a member of the Board becomes vacant, appoint another person in place of the member of the Board who vacates office, and the members so appointed shall hold office for a term not exceeding three years.

### 3. Proceedings of Board

- (1) Subject to this Act, the Board may regulate its own procedure.
- (2) The Board shall meet for the transaction of business at least once every three months at a place and time that the Board may determine.
- (3) The Chairperson may call a meeting of the Board on giving notice of not less than fourteen days and if not less than one-third of the members of the Board so request, in writing, except that if the urgency of a particular matter does not permit the giving of that notice, a special meeting may be called on giving a shorter notice.
- (4) Four members of the Board shall constitute a quorum at a meeting of the Board.
- (5) There shall preside at a meeting of the Board—
  - (a) the Governor;
  - (b) in the absence of the Governor, the Vice-Chairperson; and
  - (c) in the absence of the Governor and the Vice-Chairperson, a member of the Board that the members of the Board present may elect from among themselves for the purpose of that meeting.
- (6) A decision of the Board on any question shall be determined by a majority of the votes of the members of the Board present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.
- (7) The Board may invite any person whose presence is, in its opinion desirable, to attend and to participate in the deliberation of a meeting of the Board, but that person shall have no vote.
- (8) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every committee of the Board.

### 4. Committees

- (1) The Board may constitute committees that it considers necessary and delegate any of its functions to these committees.
- (2) The Board may appoint as members of a committee, persons who are, or are not members of the Board, except that at least one member of a committee shall be a member of the Board.
- (3) A person serving as a member of a committee shall hold office for a period that the Board may determine.
- (4) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.



**5. Allowances**

- (1) A member of the Board, other than the Governor, or a member of a committee of the Board shall be paid allowances that the Emoluments Commission may, on the recommendation of the Minister, determine.
- (2) There shall be paid from the Funds of the Bank reasonable travelling, transport and subsistence allowances for members of the Board or members of a committee of the Board when engaged in the business of the Bank, at rates that the Emoluments Committee may, on the recommendation of the Minister, determine.

**6. Disclosure and conflict of interest**

- (1) A person who is present at a meeting of the Board or a committee of the Board at which any matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, shall, as soon as is practicable after the commencement of the meeting, declare that interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter.
- (2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.
- (3) A person who contravenes this paragraph commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

**7. Prohibition of publication or disclosure of information to unauthorized persons**

- (1) A person shall not, without the consent in writing given by or on behalf of the Bank, otherwise than in the course of the duties of that person, publish or disclose to any other person, the contents of any document, communication or information, which relates to, or which has come to the knowledge of that person in the course of that person's duties under this Act.
- (2) A person who contravenes subparagraph (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

**8. Immunity**

An action or other proceeding shall not lie or be instituted against a member of the Board, the Monetary Policy Committee, the Financial Stability Committee, a committee of the Board or a member of staff of the Bank for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance, of any of the powers, functions or duties conferred under this Act.

## **Part II – Financial provisions**

**9. Determination of net profits**

- (1) The net profits of the Bank for each financial profits year shall be determined in accordance with best international accounting standards after—
  - (a) allowing for the expenses of operations of the Bank for that year;
  - (b) making provision for—
    - (i) bad and doubtful debts, depreciation of assets and contingencies;
    - (ii) pensions, gratuities and other benefits for its employees; and
    - (iii) other matters which are consistent with the functions of the Bank.

- (2) The unrealised exchange gains will not be included in the determination of net profits.

#### 10. General reserve fund

- (1) The general reserve fund of the Bank continued and maintained in accordance with the repealed Act is continued in existence as if established and maintained in accordance with this Act.
- (2) The Bank shall, at the end of each financial year of the Bank, transfer to the fund—
  - (a) thirty-five *per centum* of the net profits of the Bank as calculated in accordance with paragraph 9, where the balance in the general reserve fund is less than three times of the Bank's authorized capital; or
  - (b) twenty *per centum* of the net profit of the bank as calculated in accordance with paragraph 9, where the balance in the general reserve fund is three times the Bank's authorized capital, or more.
- (3) The Bank may increase the total amount of the general reserve fund.
- (4) Subject to subparagraph (2), thirty-five percent of the remainder of the net profits for the financial year shall be applied to the redemption of any securities issued by the Government and transferred to the ownership of the Bank under section 4(5).
- (5) Subject to paragraph 9, the balance of the net profits for the financial year remaining after all deductions under subparagraphs (2) and (4) have been made shall be paid to the Government as soon as practicable after the completion of the financial audit at the end of the financial year.
- (6) A deduction authorized under subparagraphs (2) and (4) shall not be required to be made or a payment under subparagraph (5) shall not be made if, in the judgement of the Board, the assets of the Bank are, or after the deduction or payment shall be, less than the sum of its liabilities and paid-up capital.

#### 11. Treatment of unrealised gains or losses on certain assets or liabilities

- (1) Any net unrealised gains in any financial year of the Bank arising from changes in the valuation of its assets or liabilities in, or denominated in, gold, special drawing rights, foreign currencies, or other financial instruments as a result of any change in the values or exchange rates of gold, special drawing rights, foreign currencies or other financial instruments in terms of the domestic currency shall be credited to a revaluation reserve account.
- (2) Any net unrealised losses in any financial year of the Bank arising from any changes in the revaluation of foreign denominated assets and liabilities shall be set off against any credit balance in the revaluation reserve account at the end of the financial year.
- (3) Where after the offset under subparagraph (2), the revaluation reserve account results into a deficit, the deficit shall be charged against the profit and loss account for the year, except if this is insufficient to cover the losses, despite any other provisions of the Act, the Government shall issue to the Bank negotiable or nonnegotiable interest bearing government securities only where non-issuance of the securities shall result in the Bank's assets being less than the sum of its capital and liabilities.
- (4) The securities under subparagraph (3) shall be delivered to the Bank within the prescribed period from the date of certification of the accounts by the auditor and the interest payable on the securities shall be equal to the interest that the Government pays on securities of one year maturity if those securities are not outstanding, the interest on whatever other form of Government indebtedness whose maturity is closest to one year.
- (5) Any credit balance in the revaluation reserve account at the end of each financial year of the Bank shall be applied first, on behalf of the Government, to the redemption of all securities issued under subparagraph (3) and outstanding, and credit balance, if any, shall be retained in the account to offset future unrealised losses.

- (6) A credit or debit shall not be made to the revaluation reserve account except in accordance with this paragraph.
12. **Treatment of net losses**
- (1) Where the Bank incurs a net loss during a financial year, the loss shall be charged to the general reserve fund and if the general reserve is inadequate to cover the full amount of the loss, the balance of the loss shall be carried forward to the general reserve fund.
- (2) The Government shall, on the request of the Board and within one month after submission of an audited financial statement by the Bank confirming the balance of the accumulated losses, deliver to the Bank's funds, negotiable securities dated and bearing market related terms and conditions or foreign exchange in amounts that is necessary to maintain the Bank's assets equal to or more than the sum of its capital and liabilities.
13. **Quarterly returns**
- The Bank shall, within a period of thirty days after the last business day of each quarter—
- (a) prepare and publish in the *Gazette* a return of its assets and liabilities as at the close of business on that day; and
- (b) deliver a copy of the return to the Minister whenever so required.
14. **Financial year**
- The financial year of the Bank shall be a period of twelve months ending on 31<sup>st</sup> December.
15. **Accounts and audit**
- (1) The Bank shall cause to be kept proper books of account and other records relating to its accounts.
- (2) The accounts of the Bank shall be audited annually or whenever necessary by the Auditor-General or an auditor appointed by the Auditor-General.
- (3) The Auditor-General's fees shall be paid by the Bank.
16. **Annual report**
- (1) As soon as practicable, but not later than one hundred and twenty days after the end of the financial year, the Bank shall submit to the Minister a report concerning its activities during that financial year.
- (2) The report referred to under subparagraph (1) shall include information on the financial affairs of the Bank and there shall be appended to that report—
- (a) an audited statement of financial position;
- (b) an audited statement of comprehensive income; and
- (c) such other information as the Minister may require.
- (3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to under subparagraph (1), lay the report before the National Assembly.

## Second Schedule (Sections 10(4) and 11(5))

### Declaration of assets, liabilities, businesses and financial interests

I, \_\_\_\_\_, being appointed Governor/Deputy-Governor of the Bank [*make oath/solemnly affirm/declare*] that—

1. I am unmarried/married under \_\_\_\_\_ (matrimonial regime)

2. My assets and those of my spouse and minor children in Zambia and outside [*name of the country*] are as follows:
- (a) immovable property—
    - (i) Customary tenure \_\_\_\_\_
    - (ii) Leasehold \_\_\_\_\_
  - (b) interest in any partnership, joint venture, trust or succession
  - (c) motor vehicles \_\_\_\_\_
  - (d) jewellery and precious metals \_\_\_\_\_
  - (e) Securities including treasury bills, units, etc. \_\_\_\_\_
  - (f) Cash in bank \_\_\_\_\_
  - (g) Cash in hand exceeding [amount] \_\_\_\_\_
  - (h) Other assets exceeding [amount] in the aggregate \_\_\_\_\_
3. My liabilities and those of my spouse and minor children are as follows:  
\_\_\_\_\_
4. Any other relevant information \_\_\_\_\_  
Signature \_\_\_\_\_

[Sworn/solemnly affirmed/declared] by the above-named before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths

### Third Schedule (Sections 28(3) and 32(3))

#### Oath or affirmation on appointment of Governor or Deputy-Governor, members of the Board, Board committees, Monetary Policy Committee and Financial Stability Committee

Oath or affirmation by the Governor or Deputy-Governor, members of Board, Board committees, Monetary Policy Committee members and Financial Stability Committee members

I \_\_\_\_\_

(*full name*)

declare that I shall, in my capacity as Governor or Deputy-Governor, members of the Board, Board committees, Monetary Policy Committee and Financial Stability Committee, fulfil my duties and exercise my functions in good faith and with reasonable care and skill, without fear, favour or prejudice, and as the circumstances may dictate, in the best interest of achieving and maintaining the objectives of the Bank, in accordance with the law and customs of the Republic of Zambia.

\_\_\_\_\_  
(*Signature*)

Sworn/Affirmed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

Before me: \_\_\_\_\_

Commissioner for Oaths

**Fourth Schedule (Sections 28(3)(b) and (4)(f) and 32(3)(b) and 32(4)(b))****Code of Conduct for the Monetary Policy and Financial Stability Committees****1. Fundamental principles**

- (1) Monetary Policy Committee and Financial Stability Committee members shall act with loyalty to the Bank, be honest, objective and impartial, and subscribe to the highest standards of professional ethics, diligence, good faith and integrity.
- (2) The members of the Monetary Policy Committee and Financial Stability Committee shall avoid any action, or inaction, which could in any way impair the Bank's capacity to carry out its duties, or compromise its standing in the community and its reputation for integrity, fairness, honesty and independence.

**2. Conflict of interest**

- (1) In the performance of their duties, Monetary Policy Committee and Financial Stability Committee members shall avoid any situation that may give rise to a conflict of interest.
- (2) A discrepancy shall not exist between a member's official responsibilities and any kind of personal or external interests that could jeopardise the member's impartiality and integrity in performing the responsibilities of office.
- (3) Acceptance of gifts and favours that may appear to influence a member's performance should be avoided.
- (4) If Monetary Policy Committee and Financial Stability Committee members, who are not full-time members of staff of the Bank, undertake remunerated activities outside the Bank, those activities are subject to the conditions that the Board or any person assigned by the Bank, may determine, provided that those remunerated activities shall in the opinion of the Board not threaten the objectives and purposes of the Monetary Policy Committee and Financial Stability Committee or have a negative impact on the members' obligations with regard to their duties.
- (5) A Monetary Policy Committee and Financial Stability Committee member shall not become a shareholder, director, manager, officer in any banking or other financial institution.

**3. Declaration of interests**

- (1) To assist in the fulfilment of obligations in relation to conflicts of interests, the Monetary Policy Committee and Financial Stability Committee members shall on appointment make a full written disclosure of the nature of their direct or indirect interests that may give rise to conflict of interest.
- (2) The matters to be covered by the member's statement under subparagraph (1) shall include the disclosure of—
  - (a) any financial or business interest of the member and that of the member's family; and
  - (b) investments in companies, partnerships or joint ventures
- (3) The Monetary Policy Committee and Financial Stability Committee members shall provide the Secretary or other custodian of the Board records with an update of that statement on an annual basis.

**4. Compliance**

- (1) Compliance with this Code of Conduct shall be monitored by the Board.
- (2) Where the Monetary Policy Committee and Financial Stability Committee members or members of the public become aware or suspect that a member of the Monetary Policy Committee and Financial Stability Committee has, or may have, contravened this Code, this information should be reported immediately to the Board, in writing and in a confidential manner.

- (3) The Board shall investigate the alleged breach of its own violation or upon request.
- (4) Deviation from the standards of this Code shall be dealt with as misconduct on the part of the member concerned and that member shall be disciplined in accordance with the provisions of the Act.
- (5) For the duration of any investigation into any allegation of a contravention of this Code, the Board reserves the right to suspend the member concerned from carrying out functions of the Monetary Policy Committee and Financial Stability Committee and the Bank.
- (6) Any investigation into a suspected or possible contravention of this Code shall be kept confidential.

#### 5. Independence

- (1) The Monetary Policy Committee and Financial Stability Committee members shall be independent from any political influence in the performance of their duties under this Act.
- (2) The Monetary Policy Committee and Financial Stability Committee members shall not act as delegates or representatives of any interest groups or industry in the discharge of their duties.

#### 6. Confidentiality

In accordance with section 60(1) of this Act, members of the Monetary Policy Committee and Financial Stability Committee are required to maintain strict confidentiality of the information discussed at Monetary Policy Committee and Financial Stability Committee meetings and not to divulge any confidential information obtained by members in the performance of their duties, provided that such confidentiality shall be lifted one year after they have ceased to hold any position where they might be perceived as having acted with the benefit of knowledge not available to the general market place, for their own interest.

Signed by the said \_\_\_\_\_)

this \_\_\_\_\_ day of \_\_\_\_\_)

In the presence of;

Name:

Address:

Signature:

Date:

### Fifth Schedule (Section 59)

#### Oath of secrecy

I, \_\_\_\_\_, having been appointed \_\_\_\_\_ in the Bank of Zambia, do swear/affirm that I shall faithfully and diligently discharge my duties and perform the functions of my office and that I shall not directly or indirectly reveal or transmit any information or matter that may come to my knowledge by reason of my office except as may be required in the discharge of my duties or with the authority of the Bank, or as otherwise required by law.

So help me God.

\_\_\_\_\_

(Signature)

Sworn at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Before me:

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Commissioner for Oaths

## **Sixth Schedule (Section 75(2))**

### **Savings and transitional provisions**

#### **1. Interpretation**

For the purposes of this Schedule "former Bank" means the Bank of Zambia established under the repealed Act.

#### **2. Staff**

- (1) A person who, before the commencement of this Act was an employee of the former Bank, shall be transferred to the service of the Bank as an employee of the Bank under this Act.
- (2) The service of the persons referred to in subparagraph (1) shall be treated as continuous service.
- (3) Nothing in this Act affects the rights and liabilities of any person employed or appointed by the former Bank before the commencement of this Act.

#### **3. Transfer of assets and liabilities**

- (1) On or after the commencement of this Act, there shall be transferred to, vest in, and subsist against the Bank by virtue of this Act and without further assurance, assets, rights, liabilities and obligations that the Minister may determine which immediately before that date were the assets, rights, liabilities and obligations of the former Bank which are necessary for the performance of the Bank's functions under this Act.
- (2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Bank was a party immediately before the commencement of this Act, whether or not of a nature that rights, liabilities and obligations could be assigned, shall unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this subparagraph, have effect as if—
  - (a) the Bank, had been party to it;
  - (b) for any reference to the former Bank there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Bank; or
  - (c) for any reference to any officer of the former Bank, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to that officer of the Bank, that it shall designate.
- (3) Where under this Act, any assets, rights, liabilities and obligations of the former Bank are deemed to be transferred to the Bank in respect of which transfer a written law provides for registration, the Bank shall make an application, in writing, to the appropriate registration authority for registration of the transfer.
- (4) The registration authority, referred under subparagraph (3), shall make entries in the appropriate register that shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

#### **4. Legal proceedings**

- (1) Any legal proceedings or application of the former Bank pending immediately before the commencement of this Act by or against the former Bank may be continued by or against the Bank.

- (2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Bank, may be instituted by or against the Bank.